Fiscal Note 2009 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	HB0501		**Title:**	Revise assessment and taxation of certain property improvements
Primary Sponsor:	Cohenour, Jill		**Status:**	As Introduced

- ☐ Significant Local Gov Impact
- ☑ Needs to be included in HB 2
- ☐ Technical Concerns
- ☐ Included in the Executive Budget
- ☐ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Expenditures:				
General Fund	$135,773	$0	$0	$0
State Special Revenue	$0	$0	$0	$0
Revenue:				
General Fund	$507,457	$528,262	$549,921	$572,468
State Special Revenue	$31,869	$33,175	$34,536	$35,952
Net Impact-General Fund Balance	$371,684	$528,262	$549,921	$572,468

Description of Fiscal Impact:
This bill provides that new property put into use during the tax year be assessed at the time of use and be subject to prorated property taxes. This bill also provides for a reduction in property taxes due or a refund of taxes paid on improvements demolished or destroyed.

FISCAL ANALYSIS

Assumptions:
Revenue From Taxation of Newly Constructed Improvements as of the Date of Occupation or Use

1. Section 1(1) of this bill states that improvements are to be assessed and taxed as of the date of occupation or use. For this fiscal note, it is assumed that the tax base for the proposal is composed of new residential and commercial real improvements classified as class 4 property excluding properties classified as new or expanding industry under 15-24-1402, MCA, or as remodeling, reconstruction, or expansion of improvements as classified under 15-24-1501, MCA, and 15-24-1502, MCA.

2. Section 1(3) of this bill requires, upon notification by the property owner, that the Department of Revenue (DOR) conduct a special assessment of improvements constructed during a tax year that were not currently assessed as of the preceding January 1.
3. Section 9 limits the applicability of this bill to improvements with a market value, as assessed by the department, of $100,000 or more and excludes additions or the remodeling of previously assessed improvements. This fiscal note assumes that market value in this case refers to the reappraisal value of the property as assessed by the department.
4. Section 1(5) requires that the department multiply the taxable value of the new improvements by the total mills levied for the current fiscal year and then multiply the product by the ratio of days that property is taxable to 365 days.
5. To determine the total value of new residential and commercial real properties not assessed as of January 1, 2006 that falls under HB 501 DOR used the following criteria: (1) market value of more than $100,000, (2) new value of more than $50,000, and (3) total increase in reappraisal improvement value of more than 80% over the previous year. Those properties meeting all three of the criteria had an estimated calendar year 2006 taxable value of $28,129,872. These criteria are used for purposes of this fiscal note in order to delineate a new improvement versus a remodel or expansion of an existing improvement.
6. Using the class 4 growth rate from HJR 2 of 4.1%, the estimated taxable value of new residential and commercial construction is $29,283,197 ($28,129,872 x 1.041) in FY 2008, $30,483,808 ($29,283,197 x 1.041) in FY 2009, $31,733,644 ($30,483,808 x 1.041) in FY 2010, and $33,034,723 ($31,733,644 x 1.041) in FY 2011.
7. This fiscal note assumes that the average completion date for new residential and commercial improvements is September 1. The average assessment period would be the four months from September 1 through December 31 or one third of the year. Based on this average assessment period, the estimated taxable value of new construction impacted by this bill is $9,761,066 ($29,283,197 x (1/3)) in FY 2008; $10,161,269 ($30,483,808 x (1/3)) in FY 2009, $10,577,881 ($31,733,644 x (1/3)) in FY 2010, and $11,011,574 ($33,034,644 x (1/3)) in FY 2011.
8. For purposes of this fiscal note, since owners of completed property are asked to self-report, compliance is estimated at 60%. Applying this compliance rate to the estimated reported taxable value in assumption 7, the estimated reported taxable value is $5,856,639 ($9,761,066 x 0.60) in FY 2008, $6,096,762 ($10,161,269 x 0.60) in FY 2009; $6,346,729 ($10,577,881 x 0.60) in FY 2010, and $6,606,945 ($11,011,574 x 0.60) in FY 2011.
9. Under this bill, as Table 1 shows, the increase in general fund revenue generated by the 95.54 mill levy will be $559,543 ($5,856,639 x 0.09554) in FY 2008, $582,485 ($6,096,762 x 0.09554) in FY 2009, $606,366 ($6,346,729 x 0.09554) in FY 2010, and $631,227 ($6,606,945 x 0.09554) for FY 2011.

Table 1
General Fund Revenue Gain From Newly Constructed Improvements Taxed at Time of Use

Fiscal Year	60% Compliance Taxable Value	General Fund Mill Levy	Revenue
FY 2008	$5,856,639	0.09554	$559,543
FY 2009	$6,096,762	0.09554	$582,485
FY 2010	$6,346,729	0.09554	$606,366
FY 2011	$6,606,945	0.09554	$631,227

10. As Table 2 provides, the estimated impact to the university 6 mill special revenue is $35,140 ($5,835,639 x 0.006) in FY 2008, $36,581 ($6,096,762 x 0.006) in FY 2009, $38,080 ($6,346,729 x 0.006) in FY 2010, and $39,642 ($6,606,945 x 0.006) in FY 2011.

Table 2
University System Revenue Gain From Newly Constructed Improvements Taxed at Time of Use

Fiscal Year	60% Compliance Taxable Value	University Mill Levy	Revenue
FY 2008	$5,856,639	0.006	$35,140
FY 2009	$6,096,762	0.006	$36,581
FY 2010	$6,346,729	0.006	$38,080
FY 2011	$6,606,945	0.006	$39,642

<u>Revenue From Penalties</u>

11. Section 1(2)(b) allows DOR to assess a penalty equal to 2% of the amount of tax due against taxpayers who fail to report a occupancy and use of a new improvement.
12. It is assumed that of the 40% of value not reported (see assumption 8) DOR identifies 10% of the taxpayers that were above the $100,000 threshold. As Table 3 shows, the estimated taxable value amount subject to penalties will be $390,443 in FY 2008, $406,451 in FY 2009, $423,115 in FY 2010, and $440,463 in FY 2011. The amount of penalty revenue to the general fund will be $746 (($390,443 x 0.09554) x 0.02) in FY 2008, $777 (($406,451 x 0.09554) x 0.02) in FY 2009, $808 (($423,115 x 0.09554) x 0.02) in FY 2010, and $842 (($440,463 x 0.09554) x 0.02) in FY 2011.

Table 3
General Fund Revenue From Penalties

Fiscal Year	40% Noncompliance Taxable Value	10% Taxpayers Above $100,000	Taxable Value Subject to Penalty	General Fund Mill Levy	Revenue Subject to Penalty	2% Penalty	Revenue
FY 2008	$3,904,426	10%	$390,442.62	0.09554	$37,302.89	2%	$746
FY 2009	$4,064,508	10%	$406,450.77	0.09554	$38,832.31	2%	$777
FY 2010	$4,231,153	10%	$423,115.25	0.09554	$40,424.43	2%	$808
FY 2011	$4,404,630	10%	$440,462.98	0.09554	$42,081.83	2%	$842

13. As Table 4 shows, the estimated penalty revenues to the university system are $47 (($390,443 x 0.006) x 0.02) in FY 2008, $49 (($406,451 x 0.006) x 0.02) in FY 2009, $51 (($423,115 x 0.006) x 0.02) in FY2010, and $53 (($440,463 x 0.006) x 0.02) in FY 2011.

Table 4
University System Revenue From Penalties

Fiscal Year	40% Noncompliance Taxable Value	10% Taxpayers Above $100,000	Taxable Value Subject to Penalty	University Mill Levy	Revenue Subject to Penalty	2% Penalty	Revenue
FY 2008	$3,904,426	10%	$390,442.62	0.006	$2,342.66	2%	$47
FY 2009	$4,064,508	10%	$406,450.77	0.006	$2,438.70	2%	$49
FY 2010	$4,231,153	10%	$423,115.25	0.006	$2,538.69	2%	$51
FY 2011	$4,404,630	10%	$440,462.98	0.006	$2,642.78	2%	$53

Special Assessment for Demolished or Destroyed Property

14. Section 2 this bill requires, upon notification of the property owner, that the DOR conduct a special assessment of improvements and adjust the taxable value for property that was assessed as of the preceding year but demolished or destroyed during the calendar year.
15. Based on a past study on the taxable value amount of property destroyed/demolished in prior years, the department estimates the taxable value for this property as $1,062,422 in calendar year 2006. Growing this amount by the class 4 growth rate from HJR 2 of 4.1%, the estimated taxable value of destroyed or demolished residential and commercial improvements is $1,105,982 ($1,062,422 x 1.041) in FY 2008, $1,151,327 ($1,105,982 x 1.041) in FY 2009, $1,198,531 ($1,151,327 x 1.041) in FY 2010, and $1,247,671 ($1,198,531 x 1.041) in FY 2011.
16. For purposes of this fiscal note, since notifying the DOR may lead to a reduction in taxes due, this fiscal note assumes 100% of taxpayers will report destroyed or demolished class 4 improvements and will receive a reduction or a refund of property taxes already paid.
17. This fiscal note also assumes that the amount of destroyed/demolished residential and commercial improvements occurs throughout the year with an average assessment period after the demolition of six months. Based on this average assessment period, the estimated taxable value of destroyed or demolished property under this bill is $552,992 in FY 2008, $575,663 in FY 2009, $599,266 in FY 2010, and $623,835 in FY 2011.
18. As Table 5 shows, the estimated loss in general fund revenues from the destruction/demolition of real residential and commercial improvements not assessed as of the January 1, 2006 is $52,833 ($1,105,982 x 0.5 x 0.09554) in FY 2008, $54,999 ($1,151,327 x 0.5 x 0.09554) in FY 2009, $57,254 ($1,198,531 x 0.5 x 0.09554) in FY 2010, and $59,601 ($1,247,671 x 0.5 x 0.09554) in FY 2011.

Table 5
General Fund Revenue Loss
Due to Demolished or Destroyed Improvements

Fiscal Year	% Eliminated	1/2 Year	General Fund Mill Levy	Revenue Loss
FY 2008	$1,105,982	$552,991	0.09554	$52,833
FY 2009	$1,151,327	$575,663	0.09554	$54,999
FY 2010	$1,198,531	$599,266	0.09554	$57,254
FY 2011	$1,247,671	$623,836	0.09554	$59,601

19. As Table 6 shows, the university 6 mill levy revenue reduction is $3,318 ($1,105,982 x 0.5 x 0.006) in FY 2008, $3,454 ($1,105,982 x 0.5 x 0.006) in FY 2009, $3,596 ($1,105,982 x 0.5 x 0.006) in FY 2010, and $3,743 ($1,105,982 x 0.5 x 0.006) in FY 2011.

Table 6
University Revenue Loss
Due to Demolished or Destroyed Improvements

Fiscal Year	% Eliminated	1/2 Year	University Mill Levy	Revenue Loss
FY 2008	$1,105,982	$552,991	0.00600	$3,318
FY 2009	$1,151,327	$575,663	0.00600	$3,454
FY 2010	$1,198,531	$599,266	0.00600	$3,596
FY 2011	$1,247,671	$623,836	0.00600	$3,743

HB 501 effect on County and Other Local Government:

20. The calendar year 2006 average local mills for class 4 improvements is 435.89. For calendar year 2000 to calendar year 2006 the average statewide local mill levy grew 3.4% and this growth is assumed to continue. This fiscal note assumes the average statewide local mill levy growth to equal growth in the average local mill levy for class 4 property. The average local mill levy for class 4 property will be 450.71 (435.89 x 1.034) in calendar year 2007, 466.03 (450.71 x 1.034) in calendar year 2008, 481.88 (466.03 x 1.034) in calendar year 2009, 498.26 (481.88 x 1.034) in calendar year 2010, and 515.20 (498.26 x 1.034) in calendar year 2011.
21. The local revenue gain derived from newly constructed improvement being taxed at the time of occupancy or use are provided in Table 7:

Table 7
Local Revenue Gain From Newly
Constructed Improvements Taxed at Time of Use

Fiscal Year	60% Compliance Taxable Value	Local Class 4 Mill Levy	Revenue
FY 2008	$5,856,639	0.45071	$2,639,647
FY 2009	$6,096,762	0.46603	$2,747,873
FY 2010	$6,346,729	0.48188	$2,860,536
FY 2011	$6,606,945	0.49826	$2,977,818

22. The local revenue gain generated by penalties is provided in Table 8:

Table 8
Local Revenue From Penalties

Fiscal Year	40% Noncompliance Taxable Value	10% Taxpayers Above $100,000	Taxable Value Subject to Penalty	Local Class 4 Mill Levy	Revenue Subject to Penalty	2% Penalty	Revenue
FY 2008	$3,904,426	10%	$390,442.62	0.45071	$175,976.50	2%	$3,520
FY 2009	$4,064,508	10%	$406,450.77	0.46603	$189,420.04	2%	$3,788
FY 2010	$4,231,153	10%	$423,115.25	0.48188	$203,890.60	2%	$4,078
FY 2011	$4,404,630	10%	$440,462.98	0.49826	$219,466.62	2%	$4,389

23. The local revenue loss due to demolished or destroyed properties is provided in Table 9:

Table 9 Local Revenue Loss Due to Demolished or Destroyed Improvements				
Fiscal Year	% Eliminated	1/2 Year	Local Class 4 Mill Levy	Revenue Loss
FY 2008	$1,105,982	$552,991	0.45071	$249,239
FY 2009	$1,151,327	$575,663	0.46603	$268,279
FY 2010	$1,198,531	$599,266	0.48188	$288,774
FY 2011	$1,247,671	$623,836	0.49826	$310,834

Total Revenue Impacts Due to HB 501

24. The total revenue impacts to the general fund are provided in Table 10:

Table 10 Revenue Impacts on General Fund				
Fiscal Year	Newly Constructed	Penalties	Demolition	Total
FY 2008	$559,543	$746	($52,833)	$507,457
FY 2009	$582,485	$777	($54,999)	$528,262
FY 2010	$606,366	$808	($57,254)	$549,921
FY 2011	$631,227	$842	($59,601)	$572,468

25. The total revenue impacts to the university system are provided in Table 11:

Table 11 Revenue Impacts to the University System				
Fiscal Year	Newly Constructed	Penalties	Demolition	Total
FY 2008	$35,140	$47	($3,318)	$31,869
FY 2009	$36,581	$49	($3,454)	$33,175
FY 2010	$38,080	$51	($3,596)	$34,536
FY 2011	$39,642	$53	($3,743)	$35,952

Office of Public Instruction Fiscal Impact on Expenditures

26. The increase in property tax values due to HB 501 will impact state's obligation to fund the guaranteed tax base aid for school districts and counties.
27. Property tax values will increase by $4,750,657 ($5,856,639 - $1,105,982) in FY 2008 (calendar year 2007) or 0.2404%. There will be a one-year guaranteed base aid (GTB) cost decrease. The guaranteed level is determine by the prior year taxable values applied against current year taxable values. The lower guaranteed level in FY 2007 will apply to the lower taxable values in FY 2008 and cause decreased state contribution as districts levy less mills to compensate for the increase in taxable value. The one-time decreased expenditures will be $110,000 in FY 2008 for district levies as calculated by the school fund model.

28. Countywide retirement GTB will decrease $43,000 based on a historical average of 28% of the costs paid by the state and FY 2006 county levies equal to $63.8 (0.2404 times 63.8 million local levies times 28%).
29. In FY 2009 and beyond the lower overall level of taxable values will not have a significant impact in statewide guaranteed tax base aid costs.

Department of Revenue Administrative Expenses

30. This bill requires 8.0 FTE in FY 2008, 9.0 FTE in FY 2009, and 10.0 FTE in FY 2010 and FY 2011 at an expense of $374,219 in FY 2008, $425,983 in FY 2009, and $477,747 in FY 2010 and FY 2011.
31. This bill requires operating expenses totaling $449,321 in FY 2008, $117,637 in FY 2009, 128,732 in FY 2010, and $133,473 in FY 2011.
32. This bill requires equipment expenses totaling $47,200 in FY 2008 and $5,900 in FY 2009 and FY 2010.
33. The total expenses anticipated by the DOR in accomplishing the provisions of this bill are $870,740 in FY 2008, $549,520 in FY 2009, $612,379 in FY 2010, and $611,220 in FY 2011.

Fiscal Impact:	**FY 2008 Difference**	**FY 2009 Difference**	**FY 2010 Difference**	**FY 2011 Difference**
FTE	8.0	9.0	10.0	10.0
Expenditures:				
Personal Services	$374,219	$425,983	$477,747	$477,747
Operating Expenses	$449,321	$117,637	$128,732	$133,473
Equipment	$47,200	$5,900	$5,900	$0
Local Assistance	($135,773)	$0	$0	$0
TOTAL Expenditures	$734,967	$549,520	$612,379	$611,220
Funding of Expenditures:				
General Fund (01)	$734,967	$549,520	$612,379	$611,220
TOTAL Funding of Exp.	$734,967	$549,520	$612,379	$611,220
Revenues:				
General Fund (01)	$507,457	$528,262	$549,921	$572,468
State Special Revenue (02)	$31,869	$33,175	$34,536	$35,952
TOTAL Revenues	$539,326	$561,437	$584,457	$608,420

Effect on County or Other Local Revenues or Expenditures:

1. The total fiscal impact on counties or other local revenues is provided in Table 12:

Table 12
Revenue Impacts on Counties or Other Local Governments

Fiscal Year	Newly Constructed	Penalties	Demolition	Total
FY 2008	$2,639,647	$3,520	($249,239)	$2,393,928
FY 2009	$2,747,873	$3,788	($268,279)	$2,483,382
FY 2010	$2,860,536	$4,078	($288,774)	$2,575,840
FY 2011	$2,977,818	$4,389	($310,834)	$2,671,373

Long-Range Impacts:

1. As long as more new class 4 improvements are built than demolished, the fiscal impacts will continue to increase in future years.

Technical Notes:

1. Current law and the proposal do not provide language that define the criteria indicating when an improvement is considered occupied or in use.
2. Amendments to 15-8-301, MCA, may be necessary to exclude statements of property ownership under this bill from the requirements set forth in this statute.
3. Sections 1 and 2 of this bill provide for an adjustment in the taxable value due to improvement changes, but do not include any reassessment due to changes in land which may have also occurred. In cases where a residence is constructed on land previously classified as agricultural (class 3) or forest land (class 10, the land is re-valued under class 4 as a one acre farmstead or tract parcel. These land changes would not be reflected in the property assessment until the following tax year. Also, if land is subdivided after January 1, that property is not split into the individual lots on the system until the following tax year.
4. Section 1(2)(b) of this bill provides a penalty for failure to notify DOR of new construction. It is unclear how the DOR would be able to assess at what point the new construction existed in order to apply the penalty of 2% of the taxes due since the taxes are pro-rated based on the time of occupancy/use.
5. Since local mill levies are set for a fiscal year of July 1 to June 30th, depending on the date of occupancy, the amount of property taxes billed / refunded as calculated in Section 1(5) and Section (2)(3) (b) will vary.
6. Section 1(6)(b) requires, for new improvements, if DOR determines the amount of tax due after the second Monday in August of the tax year, the notification must state that taxes are payable by May 31st of the following year. Under current law, taxpayers have the ability to pay property taxes due on Class 4 real property in two halves in November and May, or in the case of mobile homes, in May and November. In addition, under this bill, taxpayers may receive several tax notices during the same tax year, one for the amount due as of date of occupancy / use and another under the annual assessment.
7. Processing tax bills year round will be problematic for many county treasurers since many current computer systems are not set up to handle year round billing.
8. Section 1(6)(a) provides that taxes not paid are subject to the penalty and interest provisions under 15-16-102(2) and (3), MCA, however the bill does not provide language as to how a tax delinquency is handled when one portion of the property has the taxes paid and another does not. This could be particularly problematic if a tax lien has been placed on part of the property and not all of the property and a tax sale is pending.
9. Under current language, those taxpayers required to pay under Section (6)(a) have 30 days to remit payment, whereas those required to pay under Section (6)(b) have 10 months.

10. Section 1(8) requires that new improvements taxed under this section be included as newly taxable property for the current year, if assessed prior to July 1st. This timeframe for identification does not provide adequate time for DOR to compile the necessary information to perform the newly taxable calculations on those properties identified in June and thereafter.
11. Section 1(9)(a) indicates that the applicability of this bill depends on the market value of the improvement. Additional language would be useful to clarify if this is the reappraisal value, the full phase-in value, or the taxable market value. This fiscal note is based on using the reappraisal value.
12. Section 1(10) does not prohibit DOR from assessing and taxing class 4 improvements that are under construction as of January 1, at a percent complete. This raises constitutional issues of treating similar properties in the same class differently. Under current law, improvements in class 4 that are deemed not occupied or put in use during the year are not placed on the tax roll for the remainder of the year and would be taxed once based on the percentage of completion. Under this bill, improvements that are occupied or used will be taxed both for the period of use and for the total value of the property under the annual assessment.
13. Under 15-10-202, MCA, DOR must certified to each taxing authority the total amount of taxable value. This bill does not include language as to how the ever changing property tax value associated with this bill is handled in this valuation and certification process.
14. Section 3 of this bill amends 7-6-4006(2), MCA, and 20-9-161, MCA, allowing local government and schools to adjust appropriations for any tax revenue distributed due to taxes paid on new Class 4 improvements assessed under Section 1. As written, this would allow local taxing jurisdictions to have budget amendments year round anytime new revenues are received. This will also result in difficulties in finalizing the certified values taxing jurisdictions use in setting local mills.
15. Section 5 amends 15-15-102, MCA, allowing taxpayers affected by the provisions of Section 1 of this bill to file an appeal with the county tax appeals board either after receiving an additional assessment or after a determination is made as the result of an AB-26 review process used in determining property value. This results in year round review of property via the AB-26 and appeal processes.
16. Section 9 of the bill states it is the intent that the provisions of this bill be conducted by DOR with existing employees and funding. DOR will divert current resources and forego work that is required under current law. If that is not the direction of the legislature, there will be administrative expenses (see technical note 18).
17. Section 9 states that it is the intent that the provisions of this bill be conducted by DOR with existing employees and funding. Because this bill would increase workload, DOR estimates that current staff would not be able to appraise 11% of the already planned new construction workload per year.

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Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*